

FIRST REGULAR SESSION

# SENATE BILL NO. 223

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time January 8, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1055S.011

## AN ACT

To repeal section 643.079, RSMo, and to enact in lieu thereof one new section relating to air pollution emission fees.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 643.079, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 643.079, to read as follows:

643.079. 1. Any air contaminant source required to obtain a permit  
2 issued under sections 643.010 to 643.190 shall pay annually beginning April 1,  
3 1993, a fee as provided herein. For the first year the fee shall be twenty-five  
4 dollars per ton of each regulated air contaminant emitted. Thereafter, the fee  
5 shall be [annually] set **every three years** by the commission by rule and shall  
6 be at least twenty-five dollars per ton of regulated air contaminant emitted but  
7 not more than forty dollars per ton of regulated air contaminant emitted in the  
8 previous calendar year. **If necessary, the commission may make annual**  
9 **adjustments to the fee by rule.** The fee shall be set at an amount consistent  
10 with the need to fund the reasonable cost of administering sections 643.010 to  
11 643.190, taking into account other moneys received pursuant to sections 643.010  
12 to 643.190. For the purpose of determining the amount of air contaminant  
13 emissions on which the fees authorized under this section are assessed, a facility  
14 shall be considered one source under the definition of subsection 2 of section  
15 643.078, except that a facility with multiple operating permits shall pay the  
16 emission fees authorized under this section separately for air contaminants  
17 emitted under each individual permit.

18 2. A source which produces charcoal from wood shall pay an annual  
19 emission fee under this subsection in lieu of the fee established in subsection 1

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 of this section. The fee shall be based upon a maximum fee of twenty-five dollars  
21 per ton and applied upon each ton of regulated air contaminant emitted for the  
22 first four thousand tons of each contaminant emitted in the amount established  
23 by the commission pursuant to subsection 1 of this section, reduced according to  
24 the following schedule:

25 (1) For fees payable under this subsection in the years 1993 and 1994, the  
26 fee shall be reduced by one hundred percent;

27 (2) For fees payable under this subsection in the years 1995, 1996 and  
28 1997, the fee shall be reduced by eighty percent;

29 (3) For fees payable under this subsection in the years 1998, 1999 and  
30 2000, the fee shall be reduced by sixty percent.

31 3. The fees imposed in subsection 2 of this section shall not be imposed  
32 or collected after the year 2000 unless the general assembly reimposes the fee.

33 4. Each air contaminant source with a permit issued under sections  
34 643.010 to 643.190 shall pay the fee for the first four thousand tons of each  
35 regulated air contaminant emitted each year but no air contaminant source shall  
36 pay fees on total emissions of regulated air contaminants in excess of twelve  
37 thousand tons in any calendar year. A permitted air contaminant source which  
38 emitted less than one ton of all regulated pollutants shall pay a fee equal to the  
39 amount per ton set by the commission. An air contaminant source which pays  
40 emission fees to a holder of a certificate of authority issued pursuant to section  
41 643.140 may deduct such fees from any amount due under this section. The fees  
42 imposed in this section shall not be applied to carbon oxide emissions. The fees  
43 imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide  
44 emissions from any Phase I affected unit subject to the requirements of Title IV,  
45 Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any  
46 sooner than January 1, 2000. The fees imposed on emissions from Phase I  
47 affected units shall be consistent with and shall not exceed the provisions of the  
48 federal Clean Air Act, as amended, and the regulations promulgated  
49 thereunder. Any such fee on emissions from any Phase I affected unit shall be  
50 reduced by the amount of the service fee paid by that Phase I affected unit  
51 pursuant to subsection 8 of this section in that year. Any fees that may be  
52 imposed on Phase I sources shall follow the procedures set forth in subsection 1  
53 and this subsection and shall not be applied retroactively.

54 5. Moneys collected under this section shall be transmitted to the director  
55 of revenue for deposit in appropriate subaccounts of the natural resources

56 protection fund created in section 640.220, RSMo. A subaccount shall be  
57 maintained for fees paid by air contaminant sources which are required to be  
58 permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C.  
59 Section 7661, et seq., and used, upon appropriation, to fund activities by the  
60 department to implement the operating permits program authorized by Title V  
61 of the federal Clean Air Act, as amended. Another subaccount shall be  
62 maintained for fees paid by air contaminant sources which are not required to be  
63 permitted under Title V of the federal Clean Air Act as amended, and used, upon  
64 appropriation, to fund other air pollution control program activities. Another  
65 subaccount shall be maintained for service fees paid under subsection 8 of this  
66 section by Phase I affected units which are subject to the requirements of Title  
67 IV, Section 404, of the federal Clean Air Act Amendments of 1990, as amended,  
68 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control  
69 program activities. The provisions of section 33.080, RSMo, to the contrary  
70 notwithstanding, moneys in the fund shall not revert to general revenue at the  
71 end of each biennium. Interest earned by moneys in the subaccounts shall be  
72 retained in the subaccounts. The per-ton fees established under subsection 1 of  
73 this section may be adjusted annually, consistent with the need to fund the  
74 reasonable costs of the program, but shall not be less than twenty-five dollars per  
75 ton of regulated air contaminant nor more than forty dollars per ton of regulated  
76 air contaminant. The first adjustment shall apply to moneys payable on April 1,  
77 1994, and shall be based upon the general price level for the twelve-month period  
78 ending on August thirty-first of the previous calendar year.

79         6. The department may initiate a civil action in circuit court against any  
80 air contaminant source which has not remitted the appropriate fees within thirty  
81 days. In any judgment against the source, the department shall be awarded  
82 interest at a rate determined pursuant to section 408.030, RSMo, and reasonable  
83 attorney's fees. In any judgment against the department, the source shall be  
84 awarded reasonable attorney's fees.

85         7. The department shall not suspend or revoke a permit for an air  
86 contaminant source solely because the source has not submitted the fees pursuant  
87 to this section.

88         8. Any Phase I affected unit which is subject to the requirements of Title  
89 IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall  
90 pay annually beginning April 1, 1993, and terminating December 31, 1999, a  
91 service fee for the previous calendar year as provided herein. For the first year,

92 the service fee shall be twenty-five thousand dollars for each Phase I affected  
93 generating unit to help fund the administration of sections 643.010 to  
94 643.190. Thereafter, the service fee shall be annually set by the commission by  
95 rule, following public hearing, based on an annual allocation prepared by the  
96 department showing the details of all costs and expenses upon which such fees  
97 are based consistent with the department's reasonable needs to administer and  
98 implement sections 643.010 to 643.190 and to fulfill its responsibilities with  
99 respect to Phase I affected units, but such service fee shall not exceed twenty-five  
100 thousand dollars per generating unit. Any such Phase I affected unit which is  
101 located on one or more contiguous tracts of land with any Phase II generating  
102 unit that pays fees under subsection 1 or subsection 2 of this section shall be  
103 exempt from paying service fees under this subsection. A "contiguous tract of  
104 land" shall be defined to mean adjacent land, excluding public roads, highways  
105 and railroads, which is under the control of or owned by the permit holder and  
106 operated as a single enterprise.

107 9. The department of natural resources shall determine the fees due  
108 pursuant to this section by the state of Missouri and its departments, agencies  
109 and institutions, including two- and four-year institutions of higher  
110 education. The director of the department of natural resources shall forward the  
111 various totals due to the joint committee on capital improvements and the  
112 directors of the individual departments, agencies and institutions. The  
113 departments, as part of the budget process, shall annually request by specific line  
114 item appropriation funds to pay said fees and capital funding for projects  
115 determined to significantly improve air quality. If the general assembly fails to  
116 appropriate funds for emissions fees as specifically requested, the departments,  
117 agencies and institutions shall pay said fees from other sources of revenue or  
118 funds available. The state of Missouri and its departments, agencies and  
119 institutions may receive assistance from the small business technical assistance  
120 program established pursuant to section 643.173.

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